

REMARKS

In view of the following remarks and the foregoing amendments, reconsideration and allowance are respectfully requested.

Claims 1-21 and 32 are pending at the time of this action, with Claims 1 and 32 being independent. Claims 22-31 were previously cancelled. Claims 1, 7, 15-17, and 32 are amended. Dependent claims 33-39 are added. Hence, claims 1-21 and 32-39 are currently pending with claims 1, 32 and 39 being independent.

Claims 1-21 and 32 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Bezos et al. (US 6,029,141) ("Bezos") in view of Walker et al. (US 6,041,308), ("Walker") and further in view of Wilmes et al. (US 2002/0116302 A1) ("Wilmes").

Interview Summary

Applicants thank Examiner Haq for the courtesies extended to Applicants' representatives during the personal interview conducted January 15, 2008 (hereinafter, "the interview"). The substance of the interview including certain claim amendments discussed during the interview is incorporated herein.

35 U.S.C. 103 – claims 1-21, 32

Regarding the rejection of claims 1-21, 32 under 35 U.S.C. 103(a) as being unpatentable over Bezos and Walker in view of Wilmes, Applicants respectfully submit that the suggested combination does not disclose or properly suggest all of the limitations of independent claims 1 and 32. This rejection fails to establish a *prima facie* case of obviousness. In particular, the suggested combination does not disclose, teach, or suggest each and every feature of the claims.

For example, amended independent claim 1 recites the features of "employing a transaction processor to take title of the item from the seller to vest flash title in the unified storefront at a time that a sales transaction of the item occurs for the purchase of the item," as discussed during the interview. This amendment does not add new matter and is supported within the specification (see e.g., Fig. 5, paragraph 62). Also, page 4, paragraph 11 of the

specification states that “for purposes of sales tax determination and collection, and/or for compliance with any other laws or regulations, the unified storefront owner takes flash title at the point of sale, and thus becomes the seller of record from the buyer’s perspective” (*also see, e.g.,* paragraphs 44-45 of specification).

Page 3, lines 3-10 of the Office Action points to Col. 6, lines 31-35 of Bezos for allegedly teaching the claim 1 features with respect to vesting flash title. Col. 6, lines 31-35 of Bezos discloses that “the associate’s Web site 100 is the site of an entity that has registered with the merchant, via an online registration process, to market a subset of the merchant’s goods in return for compensation (preferably a performance-based commission).” However, “an online registration process” to register a website with a merchant does not disclose, teach, or suggest any vesting of flash title as recited in claim 1. There is no legal transfer of ownership of the item for sale from simply registering with an associate’s web site. Instead, the associate is an entity or individual that is registering “to market a subset of the merchant’s goods in return for compensation” (Bezos: col. 6, lines 31-34; also see Bezos col. 6, lines 12-20). Hence, Bezos does not disclose, teach, or suggest the claim 1 features of “employing a transaction processor to **take title of the item from the seller to vest flash title in the unified storefront at a time that a sales transaction of the item occurs for the purchase of the item**” (emphasis added).

Additionally, the “online registration process” itself is not related to “an order from a buyer to purchase an item,” as recited in claim 1. In particular, the registration process is not related to and/or does not disclose, teach, or suggest any of (1) a particular buyer, (2) a particular order, or (3) a particular item for sale. In contrast, Bezos teaches that the registration process itself sets up an associate to become online retailer (Bezos: Col. 6, lines 35-57). Hence, the online registration process does not render claim 1 obvious for any of these reasons.

Page 3, lines 6-10 allege that “Bezos teaches that the merchant (i.e., unified storefront) is responsible for shipping the products,” and points to Col. 6, lines 41-44 to conclude that “thus the merchant has ‘flash title’ to the purchased item prior to fulfilling the buyer’s order because it has ownership of the products from the time of the order to the time of delivery.” In contrast, by being responsible for shipping the items, Col. 6, lines 41-44 only indicates that **the merchant**

has possession of the items and not ownership. Possession differs from ownership in that the merchant may have control of the items (e.g., control during shipping), but not legal title to the items. Even if the merchant has ownership, there is **no change of ownership** of the item from **the seller to the merchant at the time the sales transaction occurs** for the buyer's purchase of the item. Col. 6, lines 41-44 is silent on disclosing a change of title from a seller to the merchant prior to delivery to the buyer.

In Fig. 1 and its related description, Bezos teaches that when the associate registers a website with the merchant, the associate markets the products of the merchant for compensation (Bezos: Col. 6, lines 12-40). When marketing the merchant's products on the associate's website, a customer can select one or more links on the associate's website to be directed to the merchant's website to purchase the items in the merchant's website (Bezos: Col. 7, lines 6-26; "referral links" to merchant's website). The associate of Bezos is a referral agent and not the initial seller of the items. Therefore, Bezos does not disclose, teach, or suggest the above recited features of claim 1.

Furthermore, page 2 of the Office Action alleges that the merchant of Bezos is the unified storefront as recited in claim 1. However, as described above, Bezos teaches that the merchant sells its own items on the merchant's website, and there are agents of the merchant that have websites with referral links to the merchant's website (Bezos: Abstract, Fig. 1; col. 1, lines 62-67; col. 2, lines 1-17). A potential buyer can select the link on the agents' websites and be directed to the merchant's website to purchase the merchant's items on the merchant's website. Thus, the merchant of Bezos cannot be equated to the claimed "unified storefront," and the claimed "unified storefront" is yet another feature of claim 1 that is not disclosed, taught or suggested by Bezos.

Page 3-4 of Office Action uses Walker and Wilmes to allegedly teach the claim 1 features of "the unified storefront masking identities of the plurality of sellers and presenting a consistent interface to the potential buyers," and "determining information for an amount of sales tax based on an operator of the unified storefront," respectively. However, even assuming for the sake of response that this assertion is correct, Applicant submits that Walker and Wilmes do

not disclose or properly suggest, "employing a transaction processor to take title of the item from the seller to vest flash title in the unified storefront at a time that a sales transaction of the item occurs for the purchase of the item," as recited in independent claim 1, and that Wilmes and Walker do not cure the deficiencies of Bezos.

The suggested combination of Bezos, Wilmes, and Walker is also improper because a person of ordinary skill in the art would not have been motivated to combine the prior art to achieve the claimed invention at least because the underlying Graham factual inquiries are not supported. For example, the suggestion combination in the Office Action (pages 2-3) asserts that the associates of Bezos are the sellers, and the associates have their identities masked from the potential buyers. However, Bezos teaches that the associates are referral agents, and the referral agents have websites that have referral links that direct potential buyers to the merchant's website to purchase the merchant's items (Bezos: Abstract; Col. 1, lines 50-67; Col. 2, lines 1-18; Col. 6, lines 6-40). Since a buyer who is directed to the unified storefront (the merchant's website in the Office Action) would already have the information for the identity of the referral agent/associates (the seller in the Office Action) that directed the buyer to the merchant's website, the merchant in the suggested combination would be **unable** to mask the identity of the seller from the buyer in the suggested combination. If the identities of the referral agents/associates in Bezos are masked from the buyers, they will not be able to sell products on behalf of the merchants, which is the disclosed purpose of the referral agents/associates. The proposed modification cannot change the principle of operation of a reference (MPEP 2143.01). Further, there is not a motivation to combine because there is not a reasonable expectation of success (MPEP 2143.02).

For at least these reasons, the rejection under 35 U.S.C. 103 to claim 1 in view of the suggested combination of Wilmes, Walker, and Bezos is improper, and the rejection should be withdrawn. Claim 1 and dependent claims 2-21 are patentable and are in condition for allowance.

Similarly, independent claim 32 recites, "assigning a title to an operator of the unified storefront as the seller of record of the purchased item by using a transaction processor take title

of the item from the merchant to vest flash title in the unified storefront at a time that a sales transaction of the item occurs for the purchase of the item." In accordance with the above, Applicant submits that neither Bezos, Wilmes, nor Walker, nor any proper combination of the three, discloses or properly suggests at least these features of independent claim 32, so that claim 32 is allowable for at least these reasons.

Therefore, Applicant submits that independent claims 1 and 32, along with their dependent claims 2-21, 33-36 are allowable for at least the above reasons.

Newly- Added Claims – Dependent Claims 33-39

Claims 33-39 are newly-added claims. No new matter has been added. The subject matter of claims 33-39 is supported within the specification (see, e.g., specification: page 4, paragraph 11; p. 14-15, paragraphs 44-45; Fig. 5; p. 20-21, paragraphs 58-62).

Dependent claims 33-38 are allowable for depending on allowable base claims, as well as for reciting patentable subject matter in their own right. For example, the suggested combination does not disclose, teach, or suggest the recited features of "providing information related to an average duration of the sale to one of the plurality of merchants" for claim 33. The suggested combination does not disclose, teach, or suggest the recited features of "wherein the transaction processor is configured to use a transactional unit for the processing of the sale" of claim 34, the features of "wherein the transaction processor is configured to use a transactional unit for the vesting of the flash title" of claim 35, and the features of "the transactional unit comprises e-commerce legal resources" of claim 36. Also, the suggested combination does not disclose, teach, or suggest the recited features of "wherein the flash title comprises a temporary ownership of the item from a time of the sales transaction to the time the buyer's order is fulfilled" for claim 38. Applicants ask that these claims be allowed.

Independent claim 39 is a system claim that recites "a transaction processor to take the title of the item from the merchant to vest flash title in the unified storefront at a time of the purchase of the item and to designate an operator of the unified storefront as the seller of record of the purchased item, wherein the flash title comprises temporary ownership of the item from a

time of the purchase of the item to the time the order is fulfilled." Claim 39 is patentable at least for the same reasons as above. A notice of allowance is respectfully requested.

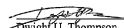
In Conclusion

In view of the amendments and remarks herein, the Applicants believe that Claims 1-21 and 32-39 are in condition for allowance and ask that these pending claims be allowed. The foregoing comments made with respect to the positions taken by the Examiner are not to be construed as acquiescence with other positions of the Examiner that have not been explicitly contested. Accordingly, the arguments for patentability of a claim should not be construed as implying that there are not other valid reasons for patentability of that claims or other claims.

No fee is believed due at this time. Please apply any other charges or credits to Deposit Account No. 06-1050.

Respectfully submitted,

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